IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.990 OF 2004
WITH
CIVIL APPLICATION NO.919 OF 2004

Shri Sanjay T.Jumle ...Appellant.

V/s.

Bijalabai P. Jagtap & Anr. ...Respondents.

Shri P.J.Pawar for the Appellant.
Shri S.M.Oak for the Respondent No.2.

CORAM: J.H.BHATIA, J.
DATE : 4th August, 2005.
P.C.:

1. Heard the learned counsels for both the parties. Perused judgment passed by the Trial Court and First Appellate Court.

2. The Respondents are the original Plaintiffs. The Respondent No.1 is the wife of the Respondent No.2. The Respondent No.2 retired from police service. The Appellant who is original Defendant is in police service. The Respondents filed the suit for possession of the suit house, contending that they had given it to the Appellant as licensee for the short period but in spite of request, he did not vacate. Hence, the license was terminated. The Appellant claims to be a tenant. The Trial Court accepted the contention of the Appellant and dismissed the suit while the First Appellate Court

allowed the Appeal of the Plaintiffs/Respondents and passed the decree in their favour. The Appellant has his own house at Sanpada at a distance of about half an hour journey from Thane. According to the Respondents, they had given house to the Appellant for a short period because of the cordial relations as both belong to police department. After occupying the house, the Appellant refuses to occupy the Government Quarter allotted to him as it was not convenient to him. There is no documentary evidence that the Appellant was inducted as tenant, also he could not produce any document in support of his contention that he had deposited an amount of Rs.15,000/- at the time of taking the house on rent from the Respondents.

3. The Appellate Court held that though the Respondent No.2 admitted in cross-examination that they have received rent from 1988-93, infact, it was a wrong use of the word. The learned counsel for the Respondent contended that actually it was compensation and not rent.

4. The Appellate Court has considered all the aspects. Matter is based purely on the facts and no question of law is involved. Therefore, the Appeal stands dismissed.

5. In view of the dismissal of the Second Appeal, the Civil Application does not survive and it is dismissed.

(J.H.BHATIA, J.)